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1 UNITED STATES PATENT AND TRADEMARK OFFICE

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3  
4 BEFORE THE BOARD OF PATENT APPEALS  
5 AND INTERFERENCES  
6

7  
8 *Ex parte* EASTON F. BELL, JEAN-HIRAM COFFY,  
9 KENNETH G. MILLER, JAMES R. NORRIS, JR., and  
10 CHERYL PICOULT TRISKA  
11

12  
13 Appeal 2007-4034  
14 Application 10/021,583  
15 Technology Center 3600  
16

17  
18 Decided: January 16, 2008  
19  
20

21 *Before* WILLIAM F. PATE, III, ANTON W. FETTING, and DAVID B.  
22 WALKER, *Administrative Patent Judges*.

23  
24 PATE, III, *Administrative Patent Judge*.

25  
26  
27 DECISION ON APPEAL  
28

1 STATEMENT OF CASE

2 The Appellants appeal under 35 U.S.C. § 134 (2002) from a final  
3rejection of claims 1-10 and 31-37. Claims 11-30 were canceled prior to the  
4present appeal. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

5 The Appellants claim a mailing system that includes a plurality of  
6devices coupled to a wireless communication network with a gateway server  
7that allows communication between the devices. The communication  
8network also allows service of the devices by a remote device using proxies  
9created by the gateway server. The use of a wireless network is described as  
10advantageously allowing the plurality of devices to be arranged in a manner  
11to optimize operational efficiency of mailrooms.

12 Independent claims 1 and 31 read as follows:

- 13 1. A mailing system comprising:  
14 a plurality of devices associated with mail preparation,  
15 each of said plurality of devices adapted to communicate with  
16 other of said plurality of devices via a wireless communication;  
17 a gateway server adapted to communicate with each of  
18 said plurality of devices via a wireless communication, said  
19 gateway server being coupled to a communication network,  
20 said gateway server and said plurality of devices forming a  
21 local network, said gateway server acting as a master of said  
22 local network, each of said plurality of devices communicating  
23 with another of said plurality of devices via a wireless  
24 communication through said gateway server; and  
25 a remote device coupled to said communication network,  
26 said remote device communicating with said gateway server via  
27 said communication network, said gateway server creating a  
28 proxy for each of said plurality of devices in said local network,

1                    wherein a service of at least one of said plurality of  
2                    devices can be invoked by said remote device utilizing said  
3                    created proxy for said at least one of said plurality of devices.  
4

5                    31. A method for invoking a service of a mailing device by a  
6                    remote device, said mailing device belonging to a wireless  
7                    mailing system, said method comprising the steps of:  
8                           registering said mailing device with a gateway server,  
9                    said registration being done via a wireless communication-  
10                  between said mailing device and said gateway server;  
11                         creating a proxy for said registered mailing device and  
12                  storing said proxy in said gateway server;  
13                         establishing a communication between said remote  
14                  device and said gateway server via a network;  
15                         selecting a service associated with registered mailing  
16                  device via said communication between said remote device and  
17                  said gateway server; and  
18                         invoking said selected service via said proxy by said  
19                  remote device.  
20

21                  The prior art relied upon by the Examiner in rejecting the claims is:

22Le Carpentier                    4,752,950                    Jun. 21, 1988  
23Lee                                5,657,689                    Aug. 19, 1997  
24Sinclair, "Wireless Networking Review," AutomatedBuildings.com, pp. 1-2,  
25May 1, 2001.  
26

1 The Examiner rejected claim 37 under 35 U.S.C. § 112 as indefinite  
2for failing to particular point out and distinctly claim the invention.<sup>1</sup>

3 The Examiner rejected claims 1-10 and 31-37 under 35 U.S.C. §  
4103(a) as obvious in view of Le Carpentier, Lee, and Sinclair.

5 We AFFIRM.

6

7 ISSUES

8 The following issues have been raised in the present appeal.

9 1. Whether the Appellants have shown that the Examiner erred in  
10rejecting claim 37 as indefinite.

11 2. Whether the Appellants have shown that the Examiner erred in  
12rejecting claims 1-10 and 31-37 as obvious in view of the cited prior art.

13

14 FINDINGS OF FACT

15 The record supports the following findings of fact (FF) by a  
16preponderance of the evidence.

17 1. Prior art mailroom devices include postage meters, weight  
18scales, mail processing machines, and computers (Spec. 1, ll. 8-11).

19 2. Prior art mailroom devices are “typically coupled to each other  
20to form a network and operate in conjunction with each other by passing  
21information and data to each other via the network” (Spec. 1, ll. 11-13).

15<sup>1</sup> Rejection of claims 1 and 31 under 35 U.S.C. § 112 as set forth in the Final  
16Office Action was withdrawn in the Examiner’s Answer (Ans. 7, ll. 2-4).  
17Thus, the Appellants’ arguments regarding rejection of claims 1 and 31  
18under 35 U.S.C. § 112 are moot.

1        3.     Le Carpentier discloses a remote control system for franking  
2 machines including a plurality of devices 1C-1E associated with mail  
3 preparation and a gateway server 4Y adapted to communicate with each of  
4 the plurality of devices via a local network 11Y, the gateway server and the  
5 plurality of devices forming a local network 11Y (Fig. 1; Col. 2, ll. 24-44  
6 and 54-66; Col. 6, ll. 1-9; Col. 8, ll. 24-30).

7        4.     Le Carpentier also discloses the gateway server 4Y being  
8 coupled to a communication network 3, a remote device 2 coupled to the  
9 communication network 3 and the remote device communicating with the  
10 gateway server 4Y via the communication network 3 (Col. 2, ll. 24-44).

11       5.     Le Carpentier further discloses that the remote device 3  
12 communicates with each of the plurality of devices 1C-1E to service at least  
13 one of said plurality of devices (Col. 1, l. 59-Col. 2, l. 2; Col. 2, ll. 45-53).

14       6.     Lee discloses a franking machine system including a gateway  
15 server 32 adapted to communicate with each of a plurality of devices 30<sub>n</sub>  
16 associated with mail preparation via a wireless communication, the gateway  
17 server being coupled to a communication network 34 (Col. 2, ll. 48-57 and  
18 65-67).

19       7.     Lee also discloses a remote device 31 that can be used to  
20 service the plurality of devices and teaches that predetermined signals  
21 transmitted during communication between the franking machine and the  
22 secure unit is different for each franking machine (Col. 3, ll. 7-11; Col. 4, ll.  
23 10-14 and 25-28).

8. Sinclair discloses a network system including a plurality of devices and a gateway server adapted to communicate with each of the plurality of devices via a wireless communication. The gateway server is coupled to a communication network and acts as a master of the local network formed by the gateway server and the plurality of devices (Sinclair Fig.).

7           9. Sinclair discloses each of the plurality of devices  
8communicating with another of the devices via a wireless communication  
9through the gateway server, Sinclair noting that “[n]etworking between PC’s  
10worked right away, as well as printer and device sharing” (Sinclair 2, ll. 4-6;  
11Fig.).

## 12

## 13 PRINCIPLES OF LAW

14 35 U.S.C. § 112, second paragraph, recites that “[t]he [S]pecification  
15 shall conclude with one or more claims particularly pointing out and  
16 distinctly claiming the subject matter which the applicant regards as his  
17 invention.” Claims are in compliance with 35 U.S.C. § 112, second  
18 paragraph, if “the claims, read in light of the [S]pecification, reasonably  
19 apprise those skilled in the art and are as precise as the subject matter  
20 permits.” *Hybritech, Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367,  
21 1385 (Fed. Cir. 1986).

In addition, “[s]ection 103 forbids issuance of a patent when ‘the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the

1time the invention was made to a person having ordinary skill in the art to  
2which said subject matter pertains.” *KSR Int’l Co. v. Teleflex Inc.*, 127 S.Ct.  
31727, 1734 (2007). In *KSR*, the Supreme Court emphasized “the need for  
4caution in granting a patent based on the combination of elements found in  
5the prior art,” and reaffirmed that “[t]he combination of familiar elements  
6according to known methods is likely to be obvious when it does no more  
7than yield predictable results.” *Id.* at 1739. The Court explained that “if a  
8technique has been used to improve one device, and a person of ordinary  
9skill in the art would recognize that it would improve similar devices in the  
10same way, using the technique is obvious unless its actual application is  
11beyond his or her skill.” *Id.* at 1740. The Court noted that the obviousness  
12analysis “should be made explicit,” but that “the analysis need not seek out  
13precise teachings directed to the specific subject matter of the challenged  
14claim, for a court can take account of the inferences and creative steps that a  
15person of ordinary skill in the art would employ.” *Id.* at 1740-41.

16

17

#### ANALYSIS

18

#### Claim 37 rejected under 35 U.S.C. § 112

19

20The Examiner rejected claim 37 stating that the Appellants have not  
21disclosed what constitutes “a status report” recited in the claim and  
22questioned whether the status report is a printed output, or a status light on a  
23device, etc. The Appellants argue that one of ordinary skill would  
24understand that the recited limitation refers to “current information about  
operating conditions of a device, and could be provided in any number of



1ways” (Br. 6, ll. 1-7). The Appellants refer to the portion of the  
2Specification that states “a remote device 50 can gain access to a device in  
3local network 30 to obtain operating status information of a device in local  
4network 30” (Spec. 6, ll. 24-26). We agree with the Appellants that one of  
5ordinary skill in the electronic arts would understand the limitation “a status  
6report” in view of the Specification. Therefore, the Appellants have  
7established that the Examiner erred in rejecting claim 37 as indefinite.

8

9       Claims 1-10 rejected under 35 U.S.C. § 103(a)

10       The Examiner rejected independent claim 1 as unpatentable over  
11Le Carpentier in view of Lee and Sinclair. Le Carpentier discloses the  
12structural limitations of claim 1, but does not appear to explicitly disclose  
13the plurality of devices 1C-1E communicating with each other via a wireless  
14communication through the gateway server that acts as a master of the  
15network, creating a proxy for each of the plurality of devices, or invoking  
16service of at least one of the plurality of devices utilizing the created proxy  
17(FF 3-5).

18       However, as the Examiner notes, Lee discloses wireless  
19communication between a plurality of franking machines and a gateway  
20server (FF 7; Ans. 4, ll. 1-6). In addition, communication between a  
21plurality of devices in a mailing system is known (FF 2). Furthermore,  
22remote invocation of service for the devices is disclosed in Le Carpentier  
23and Lee (FF 5 and 7).

1 With respect to the gateway server acting as a master of the network,  
2creating a proxy for the plurality of devices, and using the proxy in invoking  
3a service recited in claim 1, we concur with the Examiner that these  
4limitations are known in the art of wireless networks as evidenced by  
5Sinclair. The implementation of a wireless network disclosed in Sinclair  
6includes a gateway server that wirelessly interconnects a plurality of devices  
7associated with mail preparation (computers), the gateway server acting as  
8the master of the network in the manner referred to by the appellants so as to  
9“coordinat[e] communication between each of the devices of the local  
10network” (FF 1 and 8; Spec. 9, ll. 18-21).

11 In addition, as used by the Appellants, a “proxy” is a program that  
12acts as “an intermediary between the wireless communications from the  
13actual device and the network to which the gateway server is connected,  
14thereby creating a communication channel that allows the actual device to  
15send data to and receive data from the network” (Br. 5, ll. 10-13 and 22-26).  
16Sinclair inherently discloses this limitation because in order for the disclosed  
17wireless network to interconnect the plurality of devices and allow network  
18sharing of the printer and devices, a proxy (program intermediary) must be  
19created and used so as to allow identification of, and communication  
20between, the computers, the printer, and the devices in the wireless network  
21(FF 9).

22 Thus, it would have been obvious to one of ordinary skill in the art to  
23replace the wired network as disclosed in Le Carpentier with a wireless  
24network as suggested in Lee and demonstrated in Sinclair, to allow the

1 plurality of devices to communicate with each other wirelessly through the  
2 gateway server in order to realize the recognized advantages of reduction in  
3 wire clutter and increased portability of wirelessly networked devices.

4       The Appellants' various arguments in the Appeal Brief regarding the  
5 alleged deficiencies of the prior art are noted. However, as the Examiner  
6 points out, the Appellants are asserting unobviousness by arguing the prior  
7 art references separately. The test for obviousness is what the combined  
8 teachings of the references would suggest to those of ordinary skill in the art.  
9 *In re Young*, 927 F.2d 588, 591 (Fed. Cir. 1991); *In re Keller*, 642 F.2d 413,  
10 425 (CCPA 1981). Non-obviousness cannot be established by attacking  
11 references individually where the rejection is based upon the teachings of a  
12 combination of references. *In re Merck*, 800 F.2d 1091, 1097 (Fed. Cir.  
13 1986); *In re Keller*, 642 F.2d 413, 425 (CCPA 1981).

14       We also note that the Appellants' argument that the devices of  
15 Le Carpentier do not communicate with each other is unpersuasive in view  
16 of the fact that communication between plurality of devices was known in  
17 the art, and Sinclair discloses such communication (FF 2 and 9).  
18 Furthermore, the Appellants' arguments that Lee fails to disclose a wireless  
19 communication network and that Lee restricts the position of the mailing  
20 machine to a predetermined location is not persuasive (Br. 7, l. 27-Br. 8, 15;  
21 FF 6 and 7). The predetermined location referred to in Lee corresponds to  
22 the "user's premises" at which the secure unit is located and does not refer to  
23 specific placement of the franking machines within the user's premises (Col.

12, ll. 52-67). Moreover, the Appellants' arguments regarding creation and  
2use of a proxy are not persuasive for the reasons noted *supra*.

3        In view of the above, the mailing system recited in claim 1 is merely a  
4“combination of familiar elements according to known methods” in that it  
5merely combines a familiar networked mailing system with a wireless  
6network. *KSR*, 127 S.Ct. at 1739. Thus, the claimed invention is likely to be  
7obvious since “it does no more than yield predictable results.” *Id.* Therefore,  
8the Appellants have failed to establish that the Examiner erred in rejecting  
9independent claim 1 as unpatentable in view of Le Carpentier, Lee, and  
10Sinclair.

11        Dependent claims 2-10 were not argued separately on appeal, and  
12thus, stand or fall with their corresponding independent claim. See *In re*  
13*Dance*, 160 F.3d 1339, 1340 n.2 (Fed. Cir. 1998). Since we have found that  
14Appellants have failed to show that the Examiner erred in rejecting  
15independent claim 1, the Appellants have also failed to show that the  
16Examiner erred in rejecting dependent claims 2-10.

17

18        Claims 31-37 rejected under 35 U.S.C. § 103(a)

19        Independent claim 31 recites a method for invoking a service of a  
20mailing device by a remote device. The Appellants briefly argue that the  
21prior art references relied upon by the Examiner fail to specifically disclose,  
22teach, or suggest, the method claimed (Br. 10, ll. 3-11). However, it is noted  
23that explicit disclosure, teaching, or suggestion is not required in the  
24obviousness analysis, and we agree with the Examiner that the recited steps

1of the method claimed are obvious for the reasons set forth *supra* relative to  
2the Examiner's rejection of independent claim 1. *KSR*, 127 S.Ct. at 1740-  
341. In this regard, we find that registering the mailing devices with a  
4gateway server is inherently disclosed in *Le Carpentier* because such  
5registration would be required to allow the franking machines to be  
6identified in the network for servicing purposes. Wireless implementation of  
7this registering step is also inherently disclosed in *Sinclair* that establishes  
8communication with each of the devices within the range of the wireless  
9network (FF 8 and 9).

10 Dependent claims 32-37 were not argued separately on appeal. Thus,  
11because the Appellants have failed to show that the Examiner erred in  
12rejecting claim 31, the Appellants have also failed to show that the Examiner  
13erred in rejecting claims 32-37. *In re Dance*, 160 F.3d at 1340 n.2.

14

15

## CONCLUSIONS

16 1. The Appellants have shown that the Examiner erred in rejecting  
17claim 37 as indefinite.

18 2. The Appellants have not shown that the Examiner erred in  
19rejecting claims 1-10 and 31-37 as obvious in view of the cited prior art.

20

ORDER

1  
2 1. The Examiner's rejection of claim 37 under 35 U.S.C. § 112 is  
3REVERSED.

4 2. The Examiner's rejection of claims 1-10 and 31-37 under 35  
5U.S.C. § 103(a) is AFFIRMED.

6 No time period for taking any subsequent action in connection with  
7this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. §  
81.136(a)(1)(iv) (2007).

9  
10 AFFIRMED

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12  
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14  
15  
16jlb

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